COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Sprint Communications Company L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996, for arbitration of an interconnection Agreement between Sprint and Verizon-Massachusetts	)	D.T.E. 00-54

SUPPORTING COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint"), pursuant to the Arbitrator's Ruling on Assented to Motion for Extension of Time dated June 28, 2001 ("Ruling"), provides the following comments in support of its proposed interconnection agreement ("Agreement"). A copy of Sprint's proposed Agreement is attached. Per the Ruling, Sprint's comments address competing contract language for the issues identified in Exhibit A to the Assented to Motion for Extension of Time dated June 21, 2001 ("Motion"), and are limited to those issues identified in Sprint's Petition for Arbitration or Verizon's response to Sprint's Petition.[1]

1. Term of Agreement (2 years vs. 3 years) (Section 3.0)

This issue is resolved. The Parties agreed to revise Section 3.0 as it appears in the attached Agreement.

[1] Ruling at 2.

2. Performance Assurance Plan (Section 12)

This issue is resolved. The Parties agreed to revise Section 12 as it appears in the attached Agreement.

3. Rates and Charges (Sections 24.11.2 and 24.11.3)

These issues are resolved. The Parties agreed to revise Sections 24.11.2 and 24.11.3 as they appear in the attached Agreement.

4. Resale (Part I, Section 8.0)

This issue is resolved.

5. Sub-Loop, Incorporation of Tariffs (Part II, Section 1.2.11)

6. Dark Fiber, Incorporation of Tariffs (Part II, Section 1.2.12)

These issues are resolved. The Parties agreed to revise Part II, Sections 1.2.11 and 1.2.12 as they appear in the attached Agreement.

7. Verizon Reservation Regarding UNEs (Section 1.7.1(a))

This issue is resolved. The Parties agreed to delete Section 1.7.1(a) from the Agreement.

8. Methods and Points for Accessing UNEs (Part II, Sec. 1.7.4)

This issue is resolved. The Parties agreed to delete Section 1.7.4 from the Agreement.

9. Spectrum Management for Non-DSL Technologies (Sec. 1.14)

This issue is resolved. The Parties agreed to revise Section 1.14 as it appears in the Agreement.

10. Verizon Collocation at Sprint Premises (Part III, Section 2.3)

This was not an arbitrated issue. Part III, Section 2.3 of Verizon's proposed contract would require Sprint to offer collocation of equipment to Verizon for purposes of interconnection. Sprint deleted this section from its proposed contract because it is inconsistent with the Act.

Section 251(c)(6) of the Act imposes on ILECs, not CLECs, the duty to provide for physical collocation of equipment at the premises of the local exchange carrier:

> (c) Additional Obligations of *Incumbent Local Exchange Carriers*—In addition to the duties contained in subsection (b), each *incumbent local exchange carrier* has the following duties:
>
> > (6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations. (emphasis added)

Similarly, the FCC's rules provide that "An *incumbent LEC* shall provide physical collocation and virtual collocation to requesting telecommunications carriers."[2] (emphasis added) Sprint is a CLEC, not an ILEC. Sprint is therefore not required to offer collocation to Verizon. Verizon's proposed Part III, Section 2.3 should be deleted.

11. Verizon Reservation of Rights on Geographically Relevant Interconnection Points (Section 1.2.4)

This issue is resolved.

12. Permitted Types of Traffic on Two-Way Trunks (Section 1.2.6.15)

This issue is resolved. The Parties agreed to delete Part V, Section 1.2.6.15 from the contract because it conflicts with Verizon's affirmative statements (as summarized at

pages 11-12 of the Arbitration Decision) that "Verizon has not proposed restrictions on the type of traffic that Sprint can place on specific trunk groups" (Verizon Brief at 14), and that "CLECs may combine interLATA toll traffic, intraLATA toll traffic, and local traffic on a single trunk group." (Exh. Sprint IR 3-5).

13. GRIP Reservation of Rights (Section 1.2.6.18)

This issue is resolved. The Parties agreed to delete Part V, Section 1.2.6.18 from the contract.

14, 15. Verizon GRIP-Related Issues (Sections 1.3.9, 1.5.3)

Geographically Relevant Interconnection Point (GRIP) is a term that Verizon uses to describe a network scheme that requires any interconnecting CLEC to spend additional money to interface with Verizon's network. GRIP would require Sprint to establish multiple interconnection points in Verizon's network so that Verizon can reduce its costs to deliver traffic, thereby shifting costs from Verizon to new entrants.

Nothing in the Act or in the Commission's rules and regulations requires Sprint or other CLECs to build to Verizon's multiple interconnection points solely to reduce Verizon's reciprocal compensation and transport charges. Although Verizon's GRIP proposal would require multiple interconnection points per tandem, Verizon South allows parties to designate at least one IP per LATA as demonstrated by Section 2.3.2 from the Sprint/Verizon South California Interconnection Attachment:

> The Parties will mutually designate at least one IP on VERIZON's network within each LATA for the exchange of Local Traffic. As specified in section 2.4.6.2 of this Attachment, Sprint may establish additional routing point(s) through the establishment of trunk groups provisioned over dedicated facilities between the IP and additional VERIZON switches.

[2] 47 C.F.R. §51.323.

There is no justification in the Act or the Commission's rules and regulations for Verizon's proposed restrictive and burdensome forecasting, trunking, and physical architecture requirements. Section 251(c) imposes a duty on Verizon "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access . . . at any technically feasible point with the carrier's network . . . on rates . . . that are . . . reasonable." In resolving this arbitration, the Department must ensure that such resolution meets the requirements of Section 251, including the FCC's regulations prescribed pursuant to Section 251.[3] Verizon's interconnection proposals are inconsistent with the Act, and the FCC's and Department's orders.

GRIP and Verizon's GRIP-like alternatives would force Sprint to bear a disproportionate share of the costs of carrying traffic between them. Sprint would be subsidizing Verizon, because Sprint would be financially responsible for delivering traffic originated on its network to Interconnection Points at Verizon's end office switches, located within Verizon's network, while Verizon would have no reciprocal obligations for the traffic it delivers to Sprint.

Conversely, Verizon delivering its traffic to Sprint far back within Verizon's own local calling area (*i.e.*, at its own end office) would force Sprint to incur the cost of facilities to transport Verizon's originating traffic from Verizon's end office switch (or tandem) to Sprint's interconnection point. This arrangement is unfair and contrary to the FCC's rules and the Department's rules

[3] Section 252(c)(1).

Also, Sprint and Verizon operate dramatically different types of networks, using different network architectures. The Verizon hierarchical network is comprised of two switching layers, a tandem switching layer and an end office switching layer. Each tandem switch serves as a "hub" to which a number of end-office switches are connected. The end-user customers, in turn, are connected to the end-office switches by relatively short, predominantly metallic loops. In contrast, the Sprint nonhierarchical network consists of only a single layer of switches that provide both tandem and end-office functionality. It provides tandem functionality in that, like Verizon's tandem, it aggregates a variety of traffic across a wide geographic area comparable to the area served by Verizon's tandems-with-subtending-end-offices arrangements. Sprint's centrally located switch provides Sprint's customers with the same end-office switching functionality that Verizon's end-office switches provide to its customers.

It would be inequitable to have Verizon be responsible only for delivering its originating traffic to Sprint at its own switch while Sprint incurs financial responsibility to interconnect within Verizon's network (*i.e.*, at each of Verizon's end offices). Instead, the more equitable, sensible, and balanced approach is to make each party responsible for transporting its traffic to the same relative point on the other's network. The only point on each party's network where equivalent network interconnection can be accomplished is at Sprint's switch center and at Verizon's tandem center. Each party should be financially responsible for ensuring that sufficient facilities are in place to deliver traffic originating on its network to terminate traffic on the other party's network and bear the cost of providing those facilities.

Section 251(c)(2) of the Act mandates interconnection at any technically feasible point. The FCC in its *Local Competition Order* determined that competing carriers are free to choose the most efficient points of interconnection to lower costs of transport and termination.[4] The FCC stated that Section 251(c)(2) "allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic."[5] In that same Order, at paragraph 1062, the FCC ruled that each party bears responsibility for the costs of transporting its originating traffic, the same position Sprint advocates here.

In an interconnection dispute involving the same issue, the FCC intervened as *amicus curiae* and urged the court to reject US West's argument that the Act requires competing carriers to "interconnect in the same local exchange in which it intends to provide local service."[6] The FCC found that "[n]othing in the 1996 Act or binding FCC regulations requires a new entrant to interconnect at multiple locations within a single LATA. Indeed, such a requirement could be so costly to new entrants that it would thwart the Act's fundamental goal of opening local markets to competition."[7]

Many federal district courts have agreed and have rejected as inconsistent with Section 251(c)(2) incumbents' efforts to require competing carriers to establish points of

[4] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (hereinafter the "Local Competition Order"), ¶ 172.

[5] *Id.*

[6] Memorandum of the Federal Communications Commission as Amicus Curiae, at 20-21, *US West Communications Inc., v. AT&T Communications of the Pacific Northwest, Inc., et al.* (D.Or. 1998) (No. CV 97-1575-JE).

[7] *Id*. at 20.

interconnection in each of their local calling areas because such a requirement imposes undue costs and burdens on new entrants.[8]

State commission decisions also support Sprint's position. In the California arbitration between AT&T and PacBell, the Commission adopted AT&T's equivalent interconnection proposal setting the default IP at Pacific's tandem and AT&T's switch, and requiring the use of one-way trunks whereby each company is responsible for the construction and maintenance of its own trunks to deliver traffic to the interconnection points.[9] In Kansas, the arbitrator in the TCG/SWBT arbitration similarly allowed TCG to interconnect at SWBT's local and access tandems and allowed TCG to require the use of

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[8] *See, e.g., US West Communications v. AT&T Communications of the Pacific Northwest, Inc., et al*, No. C97-1320R, 1998 U.S. Dist. LEXIS 22361 at *26 (W.D. Wa. July 21, 1998), (US West's contention that the "Act requires a CLEC to have a POI in each local calling area in which that CLEC offers local service" is "wrong"); *US West Communications, Inc., v. Minnesota Public Utilities Commission, et al*., No. Civ. 97-913 ADM/AJB, slip op. at 33-34 (D. Minn. 1999) (rejecting U S West's argument that section 251(c)(2) requires at least one point of interconnection in each local calling exchange served by US West); *US West Communication, Inc., v. Arizona Corporation Commission*, 46 F.Supp. 2d 1004, 1021 (D.Ariz. 1999) ("The court also rejects U S West's contention that a CLEC is always required to establish a point of interconnection in each local exchange in which it intends to provide service. That could impose a substantial burden upon CLECs, particularly if they employ a different network architecture than U.S. West"); *US West Communications, Inc. v. AT&T Communications of the Pacific Northwest, Inc., et al*., 31 F. Supp. 2d 839, 852 (D. Or. 1998) ("Although the court agrees with US West that the Act does not define the minimum number of interconnection points, the court also rejects US West's contention that a CLEC is required to establish a point of interconnection in each local exchange in which it intends to provide service. That is not legally required, and the cost might well be prohibitive for prospective customers.") *See also US West Communications, Inc. v. MFS Intelenet, Inc.,* No. C97-222WD, 1998 WL 350588, *3 (W.D. Wa. 1998), *aff'd U S West Communications v. MFS Intelenet, Inc.*, 193 F.3d 1112, 1124 (9th Cir. 1999). Most recently, the U.S. District Court for Colorado issued a similar ruling in *US West Communications, Inc. v. Robert J. Hix, et al.,* No. C97-D-152, _ F.Supp. _ (D.Colo., June 23, 2000) ("Moreover, the Court holds that it is the CLEC's choice, subject to technical feasibility, to determine the most efficient number of interconnection points, and the location of those points.").

[9] Public Utilities Commission of the State of California, Opinion, *Application of AT&T Communications of California, Inc. (U 5002 C), et al., for Arbitration of an Interconnection Agreement with Pacific Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Application 00-01-022, page 13 (CA PUC August 7, 2000).

one-way trunks (*citing* the Texas 271 Order).[10] The arbitrator's findings and conclusions were accepted and adopted by the Kansas State Corporation Commission as its own.[11]

Similarly, the Maryland Commission has established guidelines governing points of interconnection, ruling that "[c]o-carriers must establish a minimum of one [point of interconnection] per [Verizon] access tandem serving area when the co-carrier terminates local calls to customers within that serving area. That is, co-carriers must deliver the call to the access tandem serving the area where the calls will terminate."[12] These rulings are consistent with Sprint's position, and Sprint urges the Commission to reject Verizon's GRIP proposal and require Verizon to remove all GRIP references from the contract.

The New York Public Service Commission and the Department expressly rejected Verizon's geographically relevant interconnection point (GRIP) proposal.[13] The Department rejected then Bell Atlantic's Geographically Relevant Interconnection Points (GRIP) proposal in its March 24, 2000 Order due to GRIP's adverse impact on CLECs and arcane cost allocation:

> Because Bell Atlantic's GRIP proposal would require CLECs to establish additional interconnection points at Bell Atlantic's tandem and end offices and does not allocate transport costs in a competitively neutral manner, *we reject it*. We direct Bell

[10] Arbitrator's Order No. 5: Decision. *In the Matter of the Petition of TCG Kansas City, Inc. for Compulsory Arbitration of Unresolved Issues with Southwestern Bell Telephone Company Pursuant to Section 252 of the Telecommunications Act of 1996*, Docket No. OO-TCGT-571-ARB, at 4, 10 (Aug. 7, 2000).

[11] Order Addressing and Affirming Arbitrator's Decision, *In the Matter of the Petition of TCG Kansas City, Inc. for Compulsory Arbitration of Unresolved Issues with Southwestern Bell Telephone Company Pursuant to Section 252 of the Telecommunications Act of 1996*, Docket No. OO-TCGT-571-ARB, at 2 (Sept. 8, 2000).

[12] Maryland Case No. 8584, Phase II, Order No. 72348 at 72 (December 28, 1995).

[13] New York Public Service Commission Case 99-C-1389, *Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier Agreement with Bell Atlantic-New York*, Order Resolving Arbitration Issues, Issued and Effective January 28, 2000 at 13. Massachusetts D.T.E. 98-57, Investigation by the Department on its own motion as to the proprietary of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and17, filed with the Department on August 27, 1999, to become effective on September 27, 1999, by New England Telephone Telegraph Company d/b/a Bell Atlantic-Massachusetts, March 24, 2000 (*hereinafter* "March 24, 2000 Order") at 146.

> Atlantic to revise its tariff to eliminate the GRIP proposal and to include a provision that reflects that each carrier has an obligation to transport its own customers' calls to the destination end-user on another carrier's network or bear the cost of such transport.[14] (emphasis added)

Instead, the Department decided that transport costs should be assigned in a competitively neutral manner, and that carrier are responsible to provide transport or pay for transport of their originating calls, including reciprocal compensation, between their own originating and the other carrier's terminating end-user customers.[15]

Notwithstanding the Department's rejection of GRIP, Verizon has held Sprint and these interconnection negotiations hostage to Verizon's GRIP proposal in Massachusetts and other states.

Verizon's proposed Sections 1.3.9 and 1.5.3 are a GRIP end-run that would require Sprint to charge Verizon no more than a non-distance sensitive Entrance Facility charge for the transport of traffic from a Verizon Interconnection Point ("IP") to a Sprint IP in any given LATA. These Verizon cost-shifting provisions result in the same outcome as GRIP (i.e. shifting Verizon's inter-company transport costs to the CLECs such as Sprint). These GRIP provisions are inconsistent with the Department's March 24, 2000 Order that transport costs should be assigned in a competitively neutral manner, and that carriers are responsible to provide transport or pay for transport of their originating calls, including reciprocal compensation, between their own originating and the other carrier's terminating end-user customers.[16] Capping Sprint's transport charges at a non-distance sensitive Entrance Facility rate, regardless of the transport distance,

[14] March 24, 2000 Order at 146.
[15] *Id*.
[16] *Id*.

would ignore the distance sensitivity of transport and would not reimburse Sprint for its transport costs.

Verizon's proposed Part V, Sections 1.3.9 and 1.5.3 are inconsistent with the Department's March 24, 2000 Order, and should not appear in the contract.

16. Reciprocal Compensation (Part V, Sections 2.6 and 2.7)
17. Local Traffic Definition (Definitions Section)

The Department's ruling that no reciprocal compensation need be made for ISP-bound traffic[17] has largely been superceded by the FCC's Reciprocal Compensation Order.[18] On April 18, 2001, the FCC issued its long-awaited Reciprocal Compensation Order that caps payments for ISP-bound traffic at a level lower than what carriers will continue to pay for termination of their voice traffic. Under the new plan, the payment scale for Internet traffic starts at 0.15 cents per min. for the first 6 months.[19] For the next 18 months it drops to 0.10 cents per min. and then falls to .07 cents.[20] To identify ISP-bound traffic, the FCC adopted a "rebuttable presumption" that traffic exchanged between carriers that exceeds a 3-1 ratio of terminating to originating traffic is ISP-bound and subject to this new payment system.[21] Traffic that is below that ratio is considered voice traffic.[22] Carriers that seek to rebut this presumption may seek appropriate relief from their state commissions pursuant to Section 252 of the Act.[23]

The FCC Reciprocal Compensation Order changed the definition of traffic that is subject to reciprocal compensation. The FCC revised Section 51.701(b) by striking

[17] Arbitration Decision at 5.
[18] CC Docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131, Released April 27, 2001 (*hereinafter* FCC Reciprocal Compensation Order").
[19] *Reciprocal Compensation Order* at ¶8.
[20] *Id*.
[21] *Id*.
[22] *Id*.

"local" before "telecommunications traffic" each place it appears. The revised rule provides in relevant part:

> (b) *Telecommunications traffic*. For purposes of this subpart, telecommunications traffic means:
>
> (1) Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access; or
> (2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.[24]

Sprint's proposed contract closely tracks and cites the FCC's new rules by replacing "Local" with "Telecommunications" where it appears consistent with the new rules, and it should be adopted. Verizon's proposed contract, on the other hand, does not follow the FCC Reciprocal Compensation Order as closely as Sprint's language does. Verizon's proposed Sections 2.6 and 2.7 (among others) essentially replace "Local" with the term "Reciprocal Compensation" instead of "Telecommunications Traffic." Again, the FCC's revised rule struck "local" before "telecommunications traffic," which is now a defined term.

Section 3(4)(A)(47) of the Act defines Telephone exchange service in relevant part as "service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge . . ." Verizon's proposed Measured Internet Traffic and Reciprocal Compensation definitions are inconsistent with the Act, and include Verizon's unnecessary interpretation of the FCC rules regarding the

[23] *Id*.

origination and termination of traffic on different networks. Sprint simply defined "Measured Internet Traffic" as "dial-up, switched Internet Traffic" without Verizon's unnecessary interpretation language regarding the origination and termination of the traffic, which is addressed in the Telecommunications Traffic definition and other provisions of the contract.

Sprint's "Telecommunications Traffic" definition, which closely tracks/cites the FCC's revised reciprocal compensation rule (47 C.F.R. §51.701(b)) and replaces Verizon's Reciprocal Compensation Traffic" and former Local Traffic definitions, provides:

> "Telecommunications Traffic," for purposes of the payment of reciprocal compensation between the Parties, means all telecommunications traffic, exchanged between Verizon and any telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate Exchange Access, Information Access (traffic delivered to an Internet service provider), or exchange services for such access as determined by the FCC in the Order on Remand and Report and Order, CC Docket Nos. 96-98, 99-68 adopted April 18, 2001, FCC 01-131 ("Order"), as that Order is subsequently modified by action of the FCC or a court of competent jurisdiction. The parties agree that for purposes of the above, the term Exchange Access does not include telecommunications traffic that originates and terminates within a given local calling area or mandatory expanded area service ("EAS") area. Neither Party waives its rights to participate and fully present its respective positions in any proceeding dealing with the compensation for Internet traffic.

Sprint deleted Verizon's proposed Part V, Section 2.7.2(a), which allows for no reciprocal compensation for Internet traffic contrary to the FCC's payment caps for ISP traffic. Sprint also deleted Verizon's proposed Part V, Section 2.7.5 that includes a 2:1 traffic ratio, which is inconsistent with the FCC's "rebuttable presumption" that traffic exchanged between carriers that exceeds a 3-1 ratio of terminating to originating traffic is ISP-bound.[25]

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[24] 47 C.F.R. § 51.701(b).

[25] Sprint understands that Verizon intended to delete Part V, Section 2.7.2, but it was double underlined (not stricken) in the draft that Verizon provided to Sprint on July 18, 2001.

The Department should adopt Sprint's proposed Sprint contact revisions.

Conclusion

For the foregoing reasons, the Department should adopt Sprint's proposed interconnection contract and reject Verizon's proposed interconnection contract.

July 19, 2001

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

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